



**ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

In the Matter of the Collection Agency License  
of:

No. 08F- BD055-BNK

**NOTICE OF HEARING**

**FINANCIAL NETWORK RECOVERY,  
INC.**

250 East Easy Street, Suite 1  
Simi Valley, CA 93065

Petitioner.

PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-138 and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative Hearings, an independent agency, and is scheduled for May 5, 2008, at 1:30 p.m., at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the "Hearing").

The purpose of the Hearing is to determine if grounds exist for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Petitioner to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the suspension or revocation of Petitioner's license pursuant to A.R.S. § 32-1053; and (4) an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating collection agencies pursuant to A.R.S. §§ 6-123 and 6-131.

Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to preside over the Hearing as the Administrative Law Judge, to make written recommendations to the Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office of Administrative Hearings has designated Lewis Kowal at the address and phone number listed

1 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative  
2 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the  
3 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final  
4 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law  
5 Judge is specifically prohibited from entering.

6 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**  
7 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue  
8 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of  
9 Administrative Hearings.

10 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by  
11 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable  
12 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence  
13 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative  
14 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S.  
15 § 41-1092.07(B), any person may appear on his or her own behalf or by counsel.

16 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be  
17 made by a court reporter or by electronic means. Any party that requests a transcript of the  
18 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

19 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant  
20 Attorney General Erin Gallagher, (602) 542-8935, 1275 West Washington, Phoenix, Arizona 85007.

### 21 **NOTICE OF APPLICABLE RULES**

22 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")  
23 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting  
24 forth the rules of practice and procedure applicable in contested cases and appealable agency actions  
25 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules  
26 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through

1 R2-19-122. A copy of these rules is enclosed.

2 Pursuant to A.A.C. R20-4-1209, Petitioner shall file a written answer **within twenty (20)**  
3 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Petitioner's position  
4 or defense and shall specifically admit or deny each of the assertions contained in this Notice of  
5 Hearing. If the answering Petitioner is without or is unable to reasonably obtain knowledge or  
6 information sufficient to form a belief as to the truth of an assertion, Petitioners shall so state, which  
7 shall have the effect of a denial. Any assertion not denied is deemed admitted. When Petitioner  
8 intends to deny only a part or a qualification of an assertion, or to qualify an assertion, Petitioner  
9 shall expressly admit so much of it as is true and shall deny the remainder. Any defense not raised  
10 in the answer is deemed waived.

11 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Petitioner will be**  
12 **deemed in default** and the Superintendent may deem the findings in this Notice of Hearing as true  
13 and admitted and the Superintendent may take whatever action is appropriate, including (1)  
14 suspension or revocation of Petitioner's license; (2) any other remedy necessary or proper for the  
15 enforcement of statutes and rules regulating collection agencies in Arizona pursuant to A.R.S.  
16 §§ 6-123 and 6-131; and (3) imposing a civil money penalty pursuant to A.R.S. § 6-132.

17 Petitioner's answer shall be mailed or delivered to the Arizona Department of Financial  
18 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or  
19 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,  
20 Arizona 85007 and to Assistant Attorney General Erin Gallagher, Consumer Protection & Advocacy  
21 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

22 **Persons with disabilities may request reasonable accommodations such as interpreters,**  
23 **alternative format or assistance with physical accessibility.** Requests for accommodations must  
24 be made as early as possible to allow time to arrange the accommodations. If accommodations are  
25 required, call the Office of Administrative Hearings at (602) 542-9826.

26 ...

1 **FACTS**

2 1. Petitioner Financial Network Recovery, Inc. ("FNR") is a California corporation,  
3 authorized to transact business in Arizona as a collection agency, license # CA 0906706, within the  
4 meaning of A.R.S. §§ 32-1001, *et seq.* The nature of FNR's business is that of soliciting claims for  
5 collection and collection of claims owed, due, or asserted to be owed or due within the meaning of  
6 A.R.S. § 32-1001(2)(a).

7 2. Lawrence Borovay ("Mr. Borovay") is the owner of FNR.

8 3. Neither FNR nor Mr. Borovay are exempt from licensure as a collection agency  
9 within the meaning of A.R.S. §§ 32-1001, *et seq.*

10 4. Petitioner failed to submit the statutory required financial statement, renewal  
11 application, and fees to the Department by January 1, 2008.

12 5. On January 10, 2008, the Department received FNR's Collection Agency License  
13 Renewal Application ("Renewal") for the license year February 1, 2008 to January 31, 2009. The  
14 notarized Renewal was signed by Mr. Borovay on January 9, 2008.

15 6. On January 10, 2008, the Department received FNR's renewal fee.

16 7. On January 10, 2008, the Department received FNR's unaudited financial statement  
17 as of November 30, 2007.

18 8. Based upon the above findings, the Department issued and served upon FNR a Notice  
19 of Assessment on February 27, 2008.

20 9. On March 12, 2008, Petitioner filed a Request For Hearing to appeal the Notice of  
21 Assessment.

22 **LAW**

23 1. Pursuant to A.R.S. Title 32, Chapter 9, the Superintendent has the authority and duty  
24 to regulate all persons engaged in the collection agency business and with the enforcement of  
25 statutes, rules, and regulations relating to collection agencies.

26 2. By the conduct set forth above, FNR has violated the following:

1 a. A.R.S. § 32-1025(A) by failing to submit the statutory required financial  
2 statement, renewal application, and fees by January 1, 2008.

3 3. The violation, set forth above, constitutes grounds for: (1) the issuance of an order  
4 pursuant to A.R.S. § 6-137 directing Petitioner to cease and desist from the violative conduct and to  
5 take the appropriate affirmative actions, within a reasonable period of time prescribed by the  
6 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and  
7 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the  
8 suspension or revocation of Petitioner's license pursuant to A.R.S. § 32-1053; and (4) an order or  
9 any other remedy necessary or proper for the enforcement of statutes and rules regulating collection  
10 agencies pursuant to A.R.S. §§ 6-123 and 6-131.

11 WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the  
12 above-described violations, the Superintendent may issue a cease and desist order pursuant to A.R.S.  
13 § 6-137; affirm the February 27, 2008 Notice of Assessment or impose a civil money penalty  
14 pursuant to A.R.S. § 6-132; suspend or revoke Petitioner's license pursuant to A.R.S. § 32-1053; and  
15 order any other remedy necessary or proper for the enforcement of statutes and rules regulating  
16 collection agencies pursuant to A.R.S. §§ 6-123 and 6-131.

17  
18  
19  
20 DATED this 31 day of march, 2008.

21 Felecia A. Rotellini  
22 Superintendent of Financial Institutions

23  
24 By Robert D. Charlton  
25 Robert D. Charlton  
26 Assistant Superintendent of Financial Institutions

1 ORIGINAL of the foregoing filed this 31<sup>st</sup>  
day of March, 2008, in the office of:

2 Felecia A. Rotellini  
3 Superintendent of Financial Institutions  
4 Arizona Department of Financial Institutions  
ATTN: Susan L. Longo  
2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018

5 COPY mailed/delivered same date to:

6  
7 Lewis Kowal, Administrative Law Judge  
8 Office of the Administrative Hearings  
1400 West Washington, Suite 101  
Phoenix, AZ 85007

9 Erin Gallagher, Assistant Attorney General  
10 Office of the Attorney General  
1275 West Washington  
Phoenix, AZ 85007

11 Robert D. Charlton, Assistant Superintendent  
12 Richard Fergus, Division Manager  
13 Arizona Department of Financial Institutions  
2910 N. 44<sup>th</sup> Street, Suite 310  
Phoenix, AZ 85018

14 AND COPY MAILED SAME DATE by  
15 Certified Mail, Return Receipt Requested, to:

16 Lawrence Borovay, Owner  
17 Financial Network Recovery, Inc.  
250 East Easy Street, Suite 1  
18 Simi Valley, CA 93065

19 CT Corporation System  
Statutory Agent for:  
20 Financial Network Recovery, Inc.  
2394 E. Camelback Road  
21 Phoenix, AZ 85016

22 By: Susan L. Longo  
23  
24  
25  
26



## ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

Felecia A. Rotellini  
Superintendent of Financial Institutions

Janet Napolitano  
Governor

March 31, 2008

Via Certified Mail

Lawrence Borovay, Owner  
Financial Network Recovery, Inc.  
250 East Easy Street, Suite 1  
Simi Valley, CA 93065

Reference: Docket # 08F-BD055-BNK / Financial Network Recovery, Inc.

Dear Mr. Borovay:

Please find the enclosed formal Notice of Hearing. The hearing is scheduled for **May 5, 2008, at 1:30 p.m.** at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona.

Please contact **Assistant Attorney General Erin Gallagher** at **(602) 542-8935** with any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert D. Charlton".

Robert D. Charlton  
Assistant Superintendent

RDC:sll

Enclosures

cc: Erin Gallagher, Assistant Attorney General